



# The Attorney General of Texas

November 9, 1977

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Honorable Robert A. Sone  
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Opinion No. H- 1088

Re: Whether a county  
may combine justice  
precincts so there are  
only two justice pre-  
cincts in the county.

Dear Mr. Sone:

You have requested our opinion as to whether a county may combine its justice precincts so that there are only two justice precincts in the county. You state that, at present, Real County has only two justices of the peace for its four precincts.

Article 5, section 18 of the Texas Constitution provides, in pertinent part:

Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight . . . . In each such precinct there shall be elected one Justice of the Peace and one Constable. . . .

(Emphasis added). The constitutional requirement regarding the minimum number of precincts is clear, and, as we observed in Attorney General Opinion H-32 (1973), with respect to another portion of article 5, section 18:

This provision leaves no room for interpretation and it must be obeyed. There must be one commissioner from each of four precincts, elected by the voters of each precinct.

Id. at 1. See Williams v. Castleman, 247 S.W. 263, 267 (Tex. 1922); State ex rel. Dowlen v. Rigsby, 43 S.W. 271, 273 (Tex. Civ. App.), writ ref'd, 43 S.W. 1101 (Tex. 1897). Thus,

in our opinion, a county must maintain a minimum of four justice precincts.

Furthermore, article 5, section 18 also requires that a justice of the peace "shall be elected" in each precinct. In the event of a vacancy in the office, article 5, section 28 directs that it "shall be filled by the Commissioners Court until the next succeeding General Election."


S U M M A R Y

A county may not combine its justice precincts so that there are only two justice precincts in the county.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman  
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